



IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

WRIT PETITION NO. 2483 OF 1994.

1. PETITIONER :-

Bansilal S/o Ramnath aged about 56 year
resident of C/o B.B. Chauhan Kirana
Dukan, Balram Chowk Krishna Nagar,
Supela, Bhilai, District Durg, (MP)

VERSUS

2. RESPONDENTS :-

1. The Steel Authority of India Ltd.
Bhilai Steel Plant Bhilai,
Through Managing Director Bhilai
Steel Plant, Bhilai District
Durg, (M.P).

2. The Presiding Officer, Labour
Court Durg, Utai Road Durg,
District Durg, M.P.

3. The Industrial Court of M.P.
(Raipur Bench) through its
Member Krishna Sadan 16 H.I.G.
Shankar Nagar, Raipur, District
Raipur, M.P.

PETITION UNDER ARTICLES 227 OF CONSTITUTION OF INDIA

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR**Single Bench: Hon'ble Shri Satish K. Agnihotri, J.****W. P. No. 2483 of 1994**

Petitioner : Bansilal

Versus

Respondents : The Steel Authority of India &
2 others.

Shri Pankaj Agrawal, counsel for the Petitioner.

Shri Kashif Shakeel, counsel for the respondent

No. 1.

ORAL ORDER**(5th April, 2006)**

1. In the present petition the question of law involved is whether a photo copy of Kutumb Register be treated as Birth Certificate issued by the Gram Panchayat.
2. The petitioner submits that at the time of appointment of petitioner on the post of Mason in Cocovan Division of the respondent No.1/plant, in the attestation form issued by the Divisional Engineer Cocovan Division, the date of birth of the petitioner was recorded as 1934.
3. The petitioner, subsequently, by letter in the year 1983, raised a dispute with regard to his date of birth and filed attested photo copy of Kutumb Register wherein date of birth of the petitioner was stated as 5.7.38. No decision was taken on the said letter of the petitioner at that time, and later on it was rejected.

4. Being aggrieved the petitioner filed an application under section 31(3) of M.P. Industrial Relations Act, before the Labour Court, Durg, in 1989.
5. The Labour Court by its judgement and order, dated 29.10.93 on the basis of the photo copy of the Kutumb Register approved by Gram Panchayat, Rampur Pandey allowed the application of the petitioner and declared the date of birth of the petitioner as 5.7.38.
6. In the meantime, the petitioner retired from service on 31.8.1992.
7. Being aggrieved, employer/respondent No.1 filed an appeal before the Industrial Court under Section 65 of M.P. Industrial Relations Act, 1960.
8. Learned member of the Industrial Court, after having considered the facts of the case held that the photo copy of the Kutumb Register, produced by the petitioner does not come within the meaning of Gram Panchayat Certificate which is permissible under circular dated 2nd August 74, for determination of date of birth. Accordingly, the appeal of the respondent No.1 was allowed, by order dated 15.3.1994 (Annexure P-22). The petitioner has filed this petition impugning the order of Industrial Court dated 15.3.94 (Annexure P-22) on the ground that the Industrial Court committed an error by not considering the photo copy of the Kutumb Register, as the same was maintained and attested by the Gram Panchayat, Rampur Pandey.

9. Shri Pankaj Agrawal, learned counsel submits that as per sub clause (1) of clause 2 of the circular No.87 dated 2nd August, 74, in case a dispute with regard to date of birth is raised, the same be considered and the certificate of Gram Panchayat may be made a basis for fixation of date of birth. Learned counsel contended that the Kutumb Register is maintained by the Gram Panchayat and the photo copy of Kutumb Register is as good as Gram Panchayat Certificate, as per requirement in the circular 87. Learned counsel further contended that since the date of birth was not recorded at the time of joining of the service, the Gram Panchayat certificate is conclusive for the purpose of determination of the date of birth. Learned counsel further submits that the case of the petitioner is covered by the circular dated 14th August, 68, (Annexure P-1) wherein, it is clearly provided that the certificate of date of birth of the Gram Panchayat be accepted as evidence of age and Kutumb Register produced by the petitioner is deemed to be a date of birth certificate from Gram Panchayat.
10. Shri Kashif Shakeel, learned counsel for the respondent No.1, per contra, submits that as per circular dated 14th August, 68, the date of birth of the petitioner has to be established on the basis of age declared by the petitioner at the time of joining of service in all the authentic documents such as

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provisional service book, service form etc. In the attestation form (Annexure P-8) the age of the petitioner is recorded as 37 years. Calculating the date of birth of the petitioner on the basis of declaration of his age the date of birth of the petitioner should be August, 1934. Learned counsel further contended that the certificate as contemplated in the circular dated 14th August, 68 and further circular 87 dated 2nd August, 74, do not provide for production of photo copy of the Kutumb Register, but the actual certificate issued by the Gram Panchayat. Learned Industrial Tribunal has rejected the Kutumb Register certificate and the said certificate was not treated as Gram Panchayat Certificate for the purpose of determination of the date of birth of the petitioner.

11. Having heard learned counsel for the parties and having perused records, it is clear that the findings and reasons recorded by the Industrial Court is correct. Photo copy of the Kutumb Register attested by the Gram Panchayat is not a Gram Panchayat Certificate as prescribed in the circular dated 14th August, 68 and circular dated 2nd August, 74. Circular dated 14th August, 68 (Annexure P-1) clearly prescribes that the age of the employee declared in the authentic document including attestation form at the time of joining of the service is final and conclusive. Admittedly, the date of birth of the petitioner recorded

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in attestation form was 37 years at the time of appointment in August, 1971. The Labour Court has not proceeded correctly by taking photo copy of Kutumb certificate as Gram Panchayat certificate. The Labour Court has completely ignored the declaration in attestation form which is final and conclusive.

12. For the reasons stated above, this does not call for any interference with the findings and order passed by the Industrial Court dated 15.3.94. Accordingly, the petition fails and is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Acum